

COASTAL CONSERVANCY

Staff Recommendation

May 24, 2007

FLEENER CREEK TRAIL

File No. 07-033

Project Manager: Su Corbaley

RECOMMENDED ACTION: Consideration and possible authorization to distribute up to \$75,000 to the United States Department of the Interior, Bureau of Land Management to construct the Fleener Creek Trail from Centerville Road to the Pacific Ocean at Fleener Creek, Humboldt County, and adoption of a Mitigation Monitoring and Reporting Plan for the project.

LOCATION: Lost Coast Headlands, seven miles southwest of the town of Ferndale, Humboldt County (Exhibit 1)

PROGRAM CATEGORY: Public Access

EXHIBITS

Exhibit 1: [Project Location and Site Map](#)

Exhibit 2: [NEPA Documentation \(EA/FONSI\)](#)

Exhibit 3: [Map of Trail Route](#)

Exhibit 4: [Letters of Support](#)

Exhibit 5: [CEQA Notice of Intent](#)

Exhibit 6: [Mitigation Monitoring and Reporting Program](#)

Exhibit 7: [Public Review Comments and Conservancy Responses](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31000 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed seventy-five thousand dollars (\$75,000) to the United States Department of the Interior, Bureau of Land Management (“the BLM”) to construct a segment of the coastal trail on the Lost Coast Headlands at Fleener Creek subject to the following conditions:

1. Prior to disbursement of any Conservancy funds, (a) the Executive Officer shall approve in writing a work plan, budget and schedule, and any contractors to be used for the activities under this authorization; and (b) the grantee shall provide evidence that all permits necessary to this project have been issued.
2. Conservancy funding shall be acknowledged by erecting and maintaining, on or along the trail, a sign or signs, the design and placement of which shall be approved by the Executive Officer.
3. The BLM shall develop the trail in accordance with the guidelines of the Conservancy's 'Standards and Recommendations for Accessway Location and Development', and shall implement the Mitigation Monitoring and Reporting Plan attached to the accompany staff recommendation as Exhibit 6, which the Conservancy hereby adopts."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the purposes and criteria set forth in Chapter 9 of Division 21 of the Public Resources Code.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. Consistent with the California Environmental Quality Act, the Conservancy has reviewed the September 2005 Record of Decision for the Environmental Assessment entitled Fleener Creek Trailhead Parking Area, and the accompanying Finding of No Significant Impact ("FONSI") prepared under the National Environmental Policy Act ("NEPA"), which includes the proposed trail project (attached to the accompanying staff recommendation as Exhibit 2), and adopted by the BLM on September 27, 2005, and finds that as mitigated the project will have no significant environmental effects, as defined in 14 Cal. Code Regulations Section 15382.
4. The proposed project will serve greater than local needs."

PROJECT SUMMARY:

The proposed authorization would enable the Bureau of Land Management ("the BLM") to construct a trail on its "Lost Coast Headlands" property located southwest of the city of Ferndale in Humboldt County (Exhibit 1). The trail will connect the recently constructed Fleener Creek Trailhead Parking Area to the beach to provide recreational access where currently none exists. The California Coastal Trail ("the CCT") is currently undefined in this area; the Conservancy report entitled "Completing the California Coastal Trail" recommends working with private landowners to acquire public rights at several locations from Centerville Beach to the north to Cape Mendocino to the south. If the CCT were to be established in this area through additional acquisitions of public rights, the Fleener Creek Trail would comprise a spur trail of the CCT. The project site is located on property purchased by The Conservation Fund in 2003, in part with Conservancy funds. The Conservation Fund subsequently transferred the property to the BLM

for management, with the objectives of opening the property to public access and maintaining grazing uses. In 2006, the BLM constructed the Fleener Creek Trailhead Parking Area as a first step to opening public access to the beach. This proposed project will complete that process and open approximately 5,000 feet of trail from the bluff top to the beach. BLM expects to complete the project not later than early December 2007 and anticipates that the level of use (visitor days) would increase from zero to 1000 annually in the first three years, and to 1500 annually thereafter. The project includes the construction of 5,000 feet of trail utilizing a small-tracked backhoe or similar equipment in areas of gentle slopes along the lower half of the trail, and hand-tool construction on the heavily-vegetated steeper slopes along the upper half. The entire trail will be out-sloped to provide proper drainage and rocked with crushed shale, thereby reducing erosion. Land use on the property includes cattle grazing. In the event that cattle begin traveling along the trail in the future, BLM will procure and install a wire fencing barricade.

The BLM is a federal public agency with a large presence in Humboldt County, successfully managing land for a wide variety of recreational opportunities and protection of open space. As it is the land manager of the Lost Coast Headlands, the BLM is the appropriate grantee for this project.

Site Description: The trail route would travel from the Fleener Creek Trailhead Parking Area along the sloping hillside to the beach where Fleener Creek empties to the Pacific Ocean (Exhibit 3).

The project area is located within a 400-acre area of public lands known as the Lost Coast Headlands that is contiguous to the coastline for approximately three miles. It lies approximately seven miles southwest of the town of Ferndale and approximately 15 miles south of the city of Eureka. The area offers spectacular scenery with vast views to the north and south from dramatic bluffs overlooking the Pacific Ocean. Coastal prairie and agricultural land comprise the majority of the landscape, with several streams with riparian vegetation cascading to the ocean. There are several ranches surrounding the public lands, and a county road traverses the property.

The project area consists of several habitat types including open sandy beaches, steep coastal bluffs, stream riparian, coastal scrub, and open grasslands. Vegetation types are predominantly California annual grassland and California coastal scrub. Wildlife species include the black-tailed deer, raccoon, grey fox, mountain lion, coyote, brush rabbit, pocket gopher, among other commonly associated with coastal prairie. Bird species include, among others, the red-tailed hawk, northern harrier, turkey vulture, common raven, California quail. Gulls, terns, and shorebirds use the beach for roosting and foraging. There are no known occurrences of endangered, threatened or rare wildlife or plant species in the project area.

Project History: In February 2000, the Conservancy authorized a grant of \$15,000 to The Conservation Fund to undertake a feasibility study to evaluate opportunities for protecting coastal resource lands, providing new public coastal access, and preserving coastal agriculture on the coast west of the town of Ferndale. One of the recommendations from that study included the acquisition of the ranchlands that now make up the Lost Coast Headlands property owned by BLM. Following that study, and acting upon that recommendation, in April 2001, the Conservancy authorized a grant of \$1,008,000 to The Conservation Fund to acquire the 225-acre Lost Coast Ranch.

In July 2001, the Lost Coast Ranch was transferred to the Bureau of Land Management for stewardship, and opened to the public, with a trail leading from a newly-constructed parking area

down to a pocket beach at the mouth of Guthrie Creek. In December 2001, the Conservancy granted an additional \$962,000 to The Conservation Fund to acquire property known as the Barri Ranch, located immediately north of the Lost Coast Ranch, for the purposes of providing public access and preserving coastal agriculture and habitat. In 2003, that property was transferred to the BLM and added to Lost Coast Headlands, in accordance with an agreement by BLM to manage and operate the property for public access, open space, resource enhancement and agriculture. The BLM specifically agreed to provide public access on footpaths and trails to the Pacific Ocean, and on the sandy beach at Fleener Creek. In 2005, the BLM completed the planning and environmental review for the improvements at Fleener Creek, including a trail across the (former Barri Ranch) property, and in 2006 constructed the parking area at the top of the bluff. This project is consistent with previous efforts and will achieve the Conservancy's and the BLM's goals of opening this property for public access while protecting natural and scenic resources, and its agricultural use.

PROJECT FINANCING:

Coastal Conservancy	\$75,000
BLM	<u>41,650</u>
Total Project Cost	\$116,650

The Conservancy's contribution to this project is expected to come from the FY 2005/06 appropriation from the Safe Neighborhoods, Parks, Clean Water, Clean Air and Coastal Protection Bond Fund (Proposition 12) allocated for resource development projects north of the Gualala River. The proposed project is consistent with this funding source as it will result in new public access facilities on Humboldt County coast.

In addition to the \$41,650 committed to the construction of the proposed trail, the BLM has already expended approximately \$38,000 on the trailhead parking area construction, and for planning and design of the Fleener Creek Trail. Additionally, BLM will contribute annual cost-share through management and maintenance.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 9 (Sections 31400 *et seq.*) of Division 21 of the Public Resources Code, regarding public access to the coast. Section 31400 states the Legislature's intent that the Conservancy have a principal role in the implementation of a system of public accessways to and along the state's coastline. The goal of the proposed project is to construct a new trail to provide public access to and along the coast. The proposed funding authorization is thus consistent with §31400.

Section 31400.1 allows the Conservancy to award grants to public agencies to develop, operate, or manage lands for public access purposes to and along the coast, if the subject accessway will serve greater than local needs. The BLM is a public agency that will carry out this project with the purpose of developing public access to and along the coast. The BLM anticipates that the use of this trail would increase from zero to 1,000 annual local and out-of-area visitors in the first three years of use, and increasing to 1,500 annually thereafter. Thus, this project is consistent with §31400.1.

Section 31400.2 allows the Conservancy to fund up to the total cost of the initial development of public accessways by public agencies. The Conservancy will contribute 64 percent of the funds for the project, and BLM will contribute the remaining 36 percent.

Section 31400.3 allows the Conservancy to aid public agencies in establishing a system of public coastal accessways. The BLM, which will carry out the proposed project, is a public agency having among its principal purposes providing public recreation opportunities. The proposed funding authorization thus meets the requirement of §31400.3 to aid public agencies in establishing a system of public coastal accessways, and is thus consistent with this section.

The proposed project is also consistent with §31408(a), directing the Conservancy to coordinate the development of the California Coastal Trail, and §31409, which authorizes the Conservancy to award grants and provide assistance to establish and expand inland trail systems that may be linked to the California Coastal Trail. The trail planned for construction could serve as spur trail to the California Coastal Trail, if it is feasible to establish the California Coastal Trail in this area between Centerville Beach and Cape Mendocino (see discussion in “Project Summary”).

CONSISTENCY WITH CONSERVANCY’S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 1 Objective C** of the Conservancy’s Strategic Plan, the proposed project will increase newly constructed Public Accessway opportunities by establishing a trail from the bluffs to the coast and providing recreational opportunities including picnicking, hiking, and wildlife viewing.

Consistent with **Goal 2 Objective B** of the Conservancy’s Strategic Plan, the proposed project will open an area that is currently closed to the public while respecting the rights of nearby landowners and the need to minimize impacts on sensitive natural resources. Adjoining property owners have been consulted throughout the planning process conducted by the BLM.

CONSISTENCY WITH CONSERVANCY’S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy’s Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy’s statutory programs and purposes:** See the “Consistency with Conservancy’s Enabling Legislation” section above.
2. **Consistency with purposes of the funding source:** See the “Project Financing” section above.
3. **Support of the public:** The project, having been through a complete public review process conducted by the BLM, has the support of the public at large, and particularly from State Senator Patricia Wiggins, Assemblymember Patty Berg, and Humboldt County Supervisor Jimmy Smith. Support letters are included as Exhibit 4 to the staff recommendation.

4. **Location:** The proposed project would be located within the coastal zone of Humboldt County and provide direct access to the coast.
5. **Need:** The BLM has only partial funding available for the proposed project, due to budget constraints. Without Conservancy contribution the trail would likely not be constructed and the area would remain inaccessible to the public.
6. **Greater-than-local interest:** Humboldt County draws hundreds of thousands of visitors annually, many specifically to visit its magnificent coastline. The construction of the Fleener Creek Trail would provide a unique access opportunity to those visitors.

Additional Criteria

7. **Urgency:** The property on which the proposed trail would be constructed was transferred to the BLM 2002 in order to develop public access opportunities. Since that time, the BLM has worked with neighboring property owners to identify acceptable public access sites, has designed the footpath, and constructed a parking area. However, trail access to the ocean remains unavailable in much of this area. Additional access points are necessary to accommodate increased public demand in the area.
9. **Leverage:** See the “Project Financing” section above.
12. **Readiness:** In addition to having matching funds available, the BLM has completed the NEPA environmental review and secured a consistency determination for the project from the Coastal Commission, and has entered into an agreement with the California Conservation Corps to provide construction labor.
13. **Realization of prior Conservancy goals:** See “Project History” above.

Consistency With Conservancy Standards And Recommendations For Accessway Location And Development

The Conservancy-adopted "Standards and Recommendations for Accessway Location and Development" is relevant to the proposed project. The proposed project is consistent with several of the applicable standards, including Standard 1 – 5, and 7 – 8.

Consistent with Standard No. 1, the trail will be located to safely accommodate public use and protect against misuse of coastal resources. The trail layout and design will follow the natural and gentle slopes of the hillside leading to the beach so as to provide the easiest and safest pathway for hikers. Additionally, the trail will be graded in a manner to avoid erosion, thus protecting the natural resources of Fleener Creek. The trail will be positioned to avoid direct contact with adjacent private lands, thereby ensuring the privacy of nearby residences.

Consistent with Standard No. 2, the trail will follow the natural and gentle slopes of the hillside, thereby reducing fall hazards.

Consistent with Standard No. 3, the trail will be constructed no wider than necessary to accommodate public access, and will vary in width from approximate three feet to five feet.

Consistent with Standard No. 4, the design and location of the trail considers the privacy of nearby residences by being routed away from direct contact with private property.

Consistent with Standard No. 5, the trail does not contact or cross Fleener Creek thus ensuring that the riparian habitat of Fleener Creek is protected.

Consistent with Standard No. 7, the trail, located on rural land that allows for cattle grazing, will be wide enough to protect trail users from contact with the cattle, as well as keep hikers from disturbing cattle. If, in the future, cattle begin using the trail for passage, the BLM has indicated it would construct fencing to separate the two uses.

Consistent with Standard No. 8, the trail will connect the shore with the road with a scenic overlook. The trail route avoids, to the extent practicable, geologically unstable and erosive soils.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The certified Humboldt County Local Coastal Program provides that, Consistent with the requirements of the California Constitution and the Coastal Act of 1976, “maximum access and recreational opportunities shall be provided for all the people.” The proposed project will provide additional public access and multiple recreational opportunities such as hiking, picnicking, beachcombing, and wildlife viewing. Thus, the proposed project is consistent with the Humboldt County local coastal program policies.

COMPLIANCE WITH CEQA: The BLM, a federal agency, completed an Environmental Assessment and adopted a Finding of Significant Impact (“FONSI”) for this project pursuant to the National Environmental Policy Act (“NEPA”).

Under the California Environmental Quality Act (“CEQA”), state agencies are encouraged to use a FONSI prepared pursuant to NEPA rather than preparing a new CEQA document if the FONSI has been or will be prepared before a Negative Declaration or EIR would otherwise be completed for the project; and if the FONSI complies with the CEQA Guidelines. Staff has reviewed the NEPA review package prepared and adopted by the BLM (Exhibit 2), and believes these conditions have been met with regard to the Fleener Creek trail project. The BLM’s NEPA review includes a description of the property and proposed project activities (as are described above, in the preceding sections of this staff recommendation), and discusses any necessary mitigation to protect resources during the project activities. The Environmental Assessment indicates that, with mitigation, the proposed project would have no significant impacts. On October 19, 2004, the BLM signed a Finding of No Significant Impact (“FONSI”) for the project, and following public review, filed a Decision Record on September 27, 2005.

Consistent with NEPA, the BLM conducted surveys of the project area to determine the presence or absence of the threatened or endangered species in the project area. No endangered, threatened, or rare plant or animal species have been identified in the vicinity of the project location. The project would have no effect on fish and wildlife.

BLM staff conducted a review of potential impacts to archeological/cultural/historical resources in the project area, and found that while there had been several ethnographic Wiyot Indian camps along the beach/creek interface, none of the sites could be located nor were any prehistoric archaeological sites found within the trail project area. Further, no sites of historical significance were found to be located within the project area. However, should any cultural materials, sites, or

properties be discovered in the course of project development, the BLM would engage a qualified archaeologist and implement necessary protective measures.

Although the Environmental Assessment concludes that impacts on the recreational resource would be positive, it acknowledges that impacts could result from interactions between hikers and grazing cattle. A wooden walk-through structure will be constructed at both ends of the trail to prevent livestock from grazing outside the allotment. Other impacts are expected to be minimal, if they occur at all, but if cattle begin using the hiking trail or if interactions with hikers become unacceptable, the BLM will install a fence adjacent to the trail.

The Environmental Assessment also considered cumulative impacts of the project (a requirement of CEQA but not of NEPA), and determined that these impacts would be either insignificant or beneficial.

The Conservancy, as lead agency under CEQA, may use the FONSI for CEQA purposes after providing notice of its intent to use the NEPA document, and of its determination that the federal document complies with CEQA. Accordingly, on April 5, 2007, staff circulated for public comment a “Notice of Intent to Use Finding of No Significant Impact in Lieu of Mitigated Negative Declaration” (Exhibit 5), including a Mitigation Monitoring and Reporting Plan (Exhibit 6), through the State Clearinghouse, posting with the Humboldt County Clerk, and publication in newspaper of general circulation. The 30-day comment period ended May 7, 2007.

Comments were received from the Native American Heritage Commission pertaining to the extent of literature and other source reviews performed during the EA to identify potential archaeological resources in the project area, and to the mitigation measure outlined in the Mitigation Monitoring and Reporting Plan should artifacts or remains be discovered onsite during trail construction. In response, BLM and Conservancy staff clarified and provided more detail regarding archeological investigations that the EA relied upon, and revised the Mitigation Monitoring and Reporting Plan to provide specific reference to procedures that BLM would follow should artifacts or human remains be discovered. The NACH’s comments, and the Conservancy staff’s response to those comments, are attached as Exhibit 7. On May 8, 2007, Conservancy staff contact the NACH to review the Conservancy’s response to comments; NACH staff indicated the Conservancy’s response as satisfactory.

Mitigation measures identified in the FONSI have been incorporated in the project and included as conditions of the Conservancy grant. Staff is recommending that the Conservancy adopt the Mitigation Monitoring and Reporting Program attached as Exhibit 6, to ensure that these mitigation measures are incorporated in the project.

Conservancy staff will file a “Notice of Determination” following project authorization.